

## Bureau of Land Management, Interior

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violations shall immediately be made available to the Secretary, who shall make the data available to the public as soon as possible.

(3) No penalty under this section may be assessed unless such person is given notice and opportunity for a hearing with respect to such violation pursuant to part 4 of this chapter.

[35 FR 9800, June 13, 1970, as amended at 41 FR 36023, Aug. 26, 1976; 42 FR 4460, Jan. 25, 1977]

### § 9239.6 Materials.

#### § 9239.6-1 Turpentine.

For turpentine trespass in a State where there is no State law governing such trespass, the measure of damages will be as follows:

(a) *Innocent trespass*. Value of the gum and injury done to the trees. *United States v. Taylor* (35 Fed. 484).

(b) *Willful trespass*. Value of the product manufactured from the crude turpentine by the settler, or any person into whose possession same may have passed, without credit for labor bestowed on the turpentine by the wrongdoer. *Union Naval Stores Co. v. United States* (240 U.S. 284, 60 L. ed. 644).

### § 9239.7 Right-of-way.

#### § 9239.7-1 Public lands.

The filing of an application under part 2800, 2810, or 2880, of this chapter does not authorize the applicant to use or occupy the public lands for right-of-way purposes, except as provided by the definition of "Casual use" in § 2801.5(b) and by §§ 2804.29 and 2884.25 of this chapter, until written authorization has been issued by the authorized officer. Any unauthorized occupancy or use of public lands or improvements for right-of-way purposes constitutes a trespass against the United States for which the trespasser is liable for costs, damages, and penalties as provided in subpart 2808 and §§ 2812.1-3 and 2888.10 of this chapter. No new permit, license, authorization, or grant of any kind shall be issued to a trespasser until:

(a) The trespass claim is fully satisfied; or

(b) The trespasser files a bond conditioned upon payment of the amount of

damages determined to be due the United States; or

(c) The authorized officer determines in writing that there is a legitimate dispute as to the fact of the trespasser's liability or as to the extent of his liability and the trespasser files a bond in an amount determined by the authorized officer to be sufficient to cover payment of a future court judgment in favor of the United States.

[54 FR 25855, June 20, 1989, as amended at 70 FR 21090, Apr. 22, 2005]

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AUTHORITY: 16 U.S.C. 4601-6a, 16 U.S.C. 670h, 16 U.S.C. 1246(i), 16 U.S.C. 1336, 43 U.S.C. 315a, 43 U.S.C. 1733(a), 43 U.S.C. 1740, and Executive Order 11644, 37 FR 2877, 3 CFR, 1971-1975 Comp., p. 666.

SOURCE: 45 FR 31276, May 12, 1980, unless otherwise noted.

### Subpart 9260—Law Enforcement, General

#### § 9260.0-1 Purpose.

This part establishes a single regulatory section in title 43 where the law enforcement provisions of all the various public land use regulations can be found.

#### § 9260.0-2 Objective.

To provide in a single part a compilation of all criminal violations relating to public lands that appear throughout title 43 of the Code of Federal Regulations.

#### § 9260.0-3 Authority.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733), the Secretary of the Interior is authorized to issue regulations with respect to the management, use, and protection of the public lands, including property located thereon, the violation of which is punishable as a criminal offense. Section

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303(c) of the Act authorizes the Secretary to enter into contracts with appropriate local officials having law enforcement authority and to authorize Federal personnel to carry out the enforcement of Federal laws and regulations relating to the public lands and their resources. Section 303(d) of the Act authorizes the Secretary to enter into cooperative agreements with State and local regulatory and law enforcement officials for the enforcement of State laws and local ordinances on the public lands. In addition to general authority under FLPMA, other specific authorities are noted where applicable.

#### §§ 9260.0-4—9260.0-6 [Reserved]

#### § 9260.0-7 Penalties.

Any person violating any provision of part 9260 of this title shall be subject to the specific penalties as noted under this part.

### Subpart 9261—General Management [Reserved]

### Subpart 9262—Land Resource Management

#### § 9262.0 Authority.

43 U.S.C. 1732, 1733, 1740, 1761-1771.

[54 FR 25855, June 20, 1989]

#### § 9262.1 Penalties for unauthorized use, occupancy, or development of public lands.

Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) any person who knowingly and willfully violates the provisions of §§ 2808.10(a), 2812.1-3, 2888.10, or 2920.1-2(a) of this chapter, by using public lands without the requisite authorization, may be tried before a United States magistrate and fined no more than \$1,000 or imprisoned for no more than 12 months, or both.

[70 FR 21090, Apr. 22, 2005]

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### Subpart 9263—Minerals Management

#### § 9263.1 Operations conducted under the 1872 Mining Law.

See subpart 3809 of this title for law enforcement provisions applicable to operations conducted on public lands under the 1872 Mining Law.

[65 FR 70132, Nov. 21, 2000]

### Subpart 9264—Range Management

#### § 9264.0–3 Authority.

(a) The provisions of this subpart are issued under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) and section 2 of the Taylor Grazing Act of 1934 (43 U.S.C. 315 *et seq.*).

(b) The provisions of § 9264.7 of this title are issued under section 8 of the Wild Free-Roaming Horse and Burro Act of 1971 (16 U.S.C. 1331 *et seq.*).

#### § 9264.1 Grazing administration—exclusive of Alaska.

Persons performing the following prohibited acts on public and other lands under Bureau of Land Management control may be subject to criminal penalties under § 9264.1(k) of this title:

(a) Allowing livestock or other privately owned or controlled animals to graze on or be driven across those lands without a permit or lease or in violation of the terms and conditions of a permit or lease, either by exceeding the number of livestock authorized, or by allowing livestock to be on these lands in an area or at a time different from that designated;

(b) Installing, using, maintaining, modifying, and/or removing range improvements without authorization;

(c) Cutting, burning, spraying, destroying, or removing vegetation without authorization;

(d) Damaging or removing United States property without authorization;

(e) Molesting livestock authorized to graze on these lands;

(f) Littering;

(g) Violating any provision of 43 CFR part 4700 concerning the protection and

management of wild free-roaming horses and burros;

(h) Violating any Federal or State laws or regulations concerning conservation or protection of natural and cultural resources or the environment including, but not limited to, those relating to air and water quality, protection of fish and wildlife, plants, and the use of chemical toxicants;

(i) Interfering with lawful uses or users;

(j) Knowingly or willfully making a false statement or representation in base property certification, grazing applications, and/or amendments thereto;

(k) Penalties. (1) Under section 2 of the Taylor Grazing Act of 1934 (43 U.S.C. 315 *et seq.*), any person who willfully violates the provisions of § 9264.1 of this title or of approved special rules and regulations is punishable by a fine of not more than \$500.

(2) Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), any person who knowingly and willfully violates the provisions of § 9264.1 of this title or of approved special rules and regulations may be brought before a designated United States magistrate and is punishable by a fine of not more than \$1,000 or imprisonment for no more than 12 months, or both.

[45 FR 31276, May 12, 1980, as amended at 47 FR 41713, Sept. 21, 1982]

#### § 9264.2 Grazing administration—Alaska; livestock. [Reserved]

#### § 9264.3 Grazing administration—Alaska; reindeer. [Reserved]

#### § 9264.7 Wild free-roaming horse and burro protection, management, and control.

(a) *Prohibited acts.* In accordance with section 8 of the Wild Free-Roaming Horse and Burro Act (16 U.S.C. 1338), any person who:

(1) Willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the authorized officer, or

(2) Converts a wild free-roaming horse or burro to private use, without authority from the authorized officer, or

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(3) Maliciously causes the death or harassment of any wild free-roaming horse or burro, or

(4) Processes, or permits to be processed, into commercial products the remains of a wild free-roaming horse or burro, or

(5) Sells, directly or indirectly, a wild free-roaming horse or burro, or the remains thereof, which have not lost their status as a wild free-roaming horse or burro, or

(6) Uses a wild free-roaming horse or burro for commercial exploitation, or

(7) Causes or is responsible for the inhumane treatment of a wild free-roaming horse or burro, or

(8) Uses a wild free-roaming horse or burro for bucking stock, or

(9) Fails, upon written notice, to produce for inspection by an authorized officer those animals assigned to him for private maintenance under a cooperative agreement, or

(10) Fails to notify the authorized officer of the death of a wild free-roaming horse or burro within 7 days of death pursuant to §4740.4-2(f) of this title, or

(11) Removes or attempts to remove, alters or destroys any official mark identifying a wild horse or burro, or its remains, or

(12) Being the assignee of a wild free-roaming horse or burro, or having charge or custody of the animal, abandons the animal without making arrangements for necessary food, water and shelter, or

(13) Being the assignee of a wild free-roaming horse or burro, or having charge or custody of the animal, fails to diligently pursue in an attempt to capture the escaped animal, or

(14) Accepts for slaughter or destruction a horse or burro bearing an official Bureau of Land Management identification mark, and which is not accompanied by a certificate that title to the animal has been transferred, or

(15) After acceptance of an animal for slaughter or destruction, fails to retain for one year the certificate of title to a horse or burro bearing an official Bureau of Land Management identification mark, or

(16) Willfully violates any provisions of the regulations under §9264.7 of this title shall be subject to a fine of not

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more than \$2,000 or imprisonment for not more than 1 year, or both. Any person so charged with such violation by the authorized officer may be tried and sentenced by a U.S. Commissioner or magistrate, designated for that purpose by the court by which he/she was appointed, in the same manner and subject to the same conditions as provided in section 3401, title 18, U.S.C.

## Subpart 9265—Timber and Other Vegetative Resources Management

### § 9265.0-3 Authority.

The provisions of §9265.5 of this title are issued under sections 1852 and 1853 of title 18 U.S.C., and section 1733 of title 43 U.S.C., unless otherwise specified.

[45 FR 31276, May 12, 1980, as amended at 60 FR 50451, Sept. 29, 1995]

### § 9265.4 Sales of forest products, general.

Commission of any of the acts listed in §5462.2 of this title is a violation of Federal regulations and may subject the responsible person(s) to criminal penalties under titles 18 and 43 of the United States Code.

[60 FR 50451, Sept. 29, 1995]

### § 9265.5 Non-sale disposals, general.

Commission of any of the acts listed in §5511.4 of this title is a violation of Federal regulations and may subject the responsible person(s) to criminal penalties under titles 18 and 43 U.S.C.

[60 FR 50451, Sept. 29, 1995]

### § 9265.6 Penalties.

(a) *Sales administration.* Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), any individual who knowingly and willfully commits the prohibited acts under §5462.2(b) of this title is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000 in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and

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any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000, or not more than \$500,000 if commission of the prohibited acts results in death.

(b) *Free use of timber.* (1) Under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)), any individual who knowingly and willfully commits the prohibited acts under 5511.4(b) of this title is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000, or not more than \$250,000 if commission of the prohibited acts results in death, in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000, or not more than \$500,000 if commission of the prohibited acts results in death.

(2) *Exceptions for mining and agriculture.* This section shall not prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or in the preparation of his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States; or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands. Use or taking of timber for these exceptions is subject to the regulations provided in part 2920—Leases, Permits and Easements, part 3715—Use and Occupancy of Mining Claims, subpart 3802—Exploration and Mining, Wilderness Review Program, and/or subpart 3809—Surface Management.

(c) *Timber removed or transported.* Under 18 U.S.C. 1852, any person:

(1) Who unlawfully cuts, or wantonly destroys, any timber growing on the public lands of the United States;

(2) Who unlawfully removes any timber from said public lands, with intent to export or dispose of the same; or

(3) Who, being the owner, master, pilot, operator, or consignee of any vessel, motor vehicle, or aircraft or the owner, director, or agent of any railroad, knowingly transports any timber unlawfully cut or removed from said lands, or lumber manufactured therefrom; shall be subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000, or not more than \$250,000 if commission of the prohibited acts results in death, in accordance with the applicable provisions of the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000, or not more than \$500,000 if commission of the prohibited acts results in death.

(d) *Trees cut or injured.* Under 18 U.S.C. 1853, whoever unlawfully cuts, or wantonly injures or destroys any tree growing, standing, or being upon any land of the United States which, in pursuance of law, has been reserved or purchased by the United States for any public use, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under the authority of the United States, or any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$100,000 in accordance with the Sentencing Reform Act of 1984 (18 U.S.C. 3551 *et seq.*), or imprisonment not to exceed 12 months, or both, for each offense, and any organization that commits these prohibited acts is subject to arrest and trial by the United States Magistrate and, if convicted, shall be subject to a fine of not more than \$200,000.

[60 FR 50451, Sept. 29, 1995]

### Subpart 9266—Wildlife Management

#### § 9266.0-3 Authority.

The provisions of this subpart are issued under section 5 of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1334).

#### § 9266.4 Viable coral communities.

(a) *Requirement for a permit.* No person shall engage in any operation which directly causes damage or injury to a viable coral community that is located on the Outer Continental Shelf without having obtained a permit for said operations.

(b) *Penalty.* Any person who knowingly and willingly violates the regulations of § 9266.4 of this title shall be guilty of a misdemeanor and punishable by a fine of not more than \$2,000 or imprisonment for not more than 6 months or by both such fine and imprisonment. Each day of violation shall be deemed a separate offense.

### Subpart 9267—Water Management [Reserved]

### Subpart 9268—Recreation Programs

#### § 9268.0-3 Authority.

The provisions of this subpart are issued under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733), and other authorities where specifically noted.

#### § 9268.1 Cultural resource management. [Reserved]

#### § 9268.2 Natural history resource management procedures. [Reserved]

#### § 9268.3 Recreation management—procedures.

(a) *Off-road vehicles, use of public lands—(1) Applicability.* The regulations in this subpart apply to all public lands, roads and trails under administration of the Bureau of Land Management.

(2) *Conditions of use—regulations governing use.* (i) The operation of off-road vehicles is permitted on those areas and trails designated as open to off-road vehicle use.

(ii) Any person operating an off-road vehicle on those areas and trails designated as limited shall conform to all terms and conditions of the applicable designation orders.

(iii) The operation of off-road vehicles is prohibited on those areas and trails closed to off-road vehicle use.

(iv) It is prohibited to operate an off-road vehicle in violation of State laws and regulations relating to use, standards, registration, operation, and inspection of off-road vehicles. To the extent that State laws and regulations do not exist or are less stringent than the regulations in part 8340 of this title, the regulations in this part are minimum standards and are controlling.

(v) No person may operate an off-road vehicle on public lands without a valid State operator's license or learner's permit. Exceptions are:

(A) A person under the direct supervision of an individual 18 years of age or older who has a valid operator's license and who is responsible for the acts of the person supervised.

(B) A person certified by State government as competent to drive off-road vehicles after successfully completing a State approved operator's training program.

(C) Operation of an off-road vehicle in areas of Alaska designated by the Bureau's State Director for Alaska.

(vi) Any person supervising a non-licensed driver shall be responsible for the operation of the vehicle and shall be responsible for the actions of the driver.

(vii) No person shall operate an off-road vehicle on public lands:

(A) In a reckless, careless, or negligent manner;

(B) In excess of established speed limits;

(C) While under the influence of alcohol, narcotics, or dangerous drugs;

(D) In a manner causing, or likely to cause significant, undue damage to or disturbance of the soil, wildlife, wildlife habitat, improvements, cultural, or vegetative resources or other authorized uses of the public lands; and

(E) During night hours, from a half-hour after sunset to a half-hour before sunrise, without lighted headlights and taillights.

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(viii) Drivers of off-road vehicles shall yield the right-of-way to pedestrians, saddle horses, pack trains, and animal-drawn vehicles.

(ix) Any person who operates an off-road vehicle on public lands must comply with the regulations in part 8340 and §8341.2 of this title as applicable, while operating such vehicle on public lands.

(3) *Vehicle operations—standards.* (i) No off-road vehicle may be operated on public lands unless equipped with brakes in good working condition.

(ii) No off-road vehicle equipped with a muffler cutout, bypass, or similar device, or producing excessive noise exceeding Environmental Protection Agency standards, when established, may be operated on public lands.

(iii) By posting appropriate signs or by marking a map which shall be available for public inspection at local Bureau offices, the authorized officer may indicate those public lands upon which no off-road vehicle may be operated unless equipped with a properly installed spark arrester. The spark arrester must meet either the U.S. Department of Agriculture—Forest Service Standard 5100-1a, or the 80 percent efficiency level standard when determined by the appropriate Society of Automotive Engineers (SAE) Recommended Practices J335 or J350. These standards include, among others, the requirements that:

(A) The spark arrester shall have an efficiency to retain or destroy at least 80 percent of carbon particles for all flow rates, and

(B) The spark arrester has been warranted by its manufacturer as meeting this efficiency requirement for at least 1,000 hours subject to normal use, with maintenance and mounting in accordance with the manufacturer's recommendation. A spark arrester is not required when an off-road vehicle is being operated in an area which has 3 or more inches of snow on the ground.

(iv) Vehicles operating during night hours, from a half-hour after sunset to a half-hour before sunrise, shall comply with the following:

(A) Headlights shall be of sufficient power to illuminate an object at 300 feet at night under normal, clear atmospheric conditions. Two- or three-wheeled vehicles or single-tracked ve-

hicles will have a minimum of one headlight. Vehicles having four or more wheels or more than a single track will have a minimum of two headlights, except double tracked snowmachines with a maximum capacity of two people may have only one headlight.

(B) Red taillights, capable of being seen at a distance of 500 feet from the rear at night under normal, clear atmospheric conditions, are required on vehicles in the same numbers as headlights.

(4) *Penalties.* Any person who violates or fails to comply with the regulations of §9268.3 of this title is subject to arrest, conviction, and punishment pursuant to appropriate laws and regulations. Such punishment may be a fine of not more than \$1,000 or imprisonment for not longer than 12 months, or both.

(b) *Management areas.* [Reserved]

(c) *Operations—Rules of conduct—(1) Developed sites and areas.* The following rules are adopted to protect public property and to conserve the resources in developed recreation sites for public use and enjoyment. The user shall not:

(i) Intentionally or wantonly destroy, deface or remove any natural feature or plant;

(ii) Intentionally or wantonly destroy, injure, deface, remove, or disturb in any manner any public building, sign, equipment, marker, or other structure or property.

(2) *Undeveloped sites and areas—prohibited activities.* In the use of lands for public outdoor recreation purposes, no one shall:

(i) Intentionally or wantonly destroy, deface, injure, sign, remove or disturb any public building, sign, equipment, marker, or other public property;

(ii) Harvest or remove any vegetative or mineral resources or object of antiquity, historic, or scientific interest unless such removal is in accordance with part 3 or §8363.2-1 of this title, or is otherwise authorized by law;

(iii) Appropriately mutilate, deface, or destroy any natural feature, object of natural beauty, antiquity, or other public or private property;

(iv) Dig, remove, or destroy any tree or shrub;

(v) Gather or collect renewable or nonrenewable resources for the purpose of sale or barter unless specifically permitted or authorized by law;

(vi) Drive or operate motorized vehicles or otherwise conduct himself in a manner that may result in unnecessary frightening or chasing of people or domestic livestock and wildlife;

(vii) Use motorized mechanical devices or explosives for digging, scraping, or trenching for purposes of collecting.

(3) *Penalties.* Any person who knowingly and willfully violates any rule of conduct described in § 9268.3(c) (1) and (2) of this title shall be fined not more than \$1,000 or imprisoned for not more than 12 months, or both.

(d) *Operations—closures*—(1) *Closure of lands.* In the management of lands to protect the public and assure proper resource utilization, conservation, and protection, public use and travel may be temporarily restricted. For instance, areas may be closed during a period of high fire danger or unsafe conditions, or where use will interfere with or delay mineral development, timber and livestock operations, or other authorized use of the lands. Areas may also be closed temporarily to:

- (i) Protect the public health and safety;
- (ii) Prevent excessive erosion;
- (iii) Prevent unnecessary destruction of plant life and wildlife habitat;
- (iv) Protect the natural environment;
- (v) Preserve areas having cultural or historical value; or
- (vi) Protect scientific studies or preserve scientific values.

(2) *Penalties.* Any person who knowingly and willfully violates any closure order issued under § 9268.3(c)(2) of this title shall be fined not more than \$1,000 or imprisoned for not more than 12 months, or both.

(e) *Use authorization*—(1) *Rules for visitor uses, other than on developed recreation sites—enforcement.* Failure to pay any fee or failure to obtain a permit required by part 2930 of this chapter or operating with a suspended permit shall be punishable pursuant to the Federal Land Policy and Management Act of 1976, the Land and Water Conservation Fund Act, as amended, the

Wild and Scenic Rivers Act, the National Trails Act, the Sikes Act, and other laws when applicable [see § 9268.3(e)(2)].

(2) *Penalties.* (i) Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733) provides: any person who knowingly and willfully violates any such regulation which is lawfully issued under this Act shall be fined no more than \$1,000 or imprisoned no more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of Title 18 of the United States Code.

(ii) Section 2, Land and Water Conservation Fund Act of 1964 (16 U.S.C. 4601–6a), provides that any person violating the rules and regulations issued under section 4601–6e of title 16 U.S.C. shall be punishable by a fine of not more than \$100.

Any person so arrested may be tried and sentenced by any United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in title 18 U.S.C., section 3401, subsections (b), (c), (d), and (e), as amended.

(iii) Section 204(a) of the Sikes Act of 1974 (16 U.S.C. 670g–n), provides that:

(A) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this Act without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than \$1,000, or imprisoned for not more than 6 months, or both.

(B) Any person who knowingly violates or fails to comply with any regulations prescribed under section 670h(c)(5) of title 16 U.S.C. shall be fined not more than \$500, or imprisoned not more than six months, or both.

(iv) Section 7 of the National Trails Act of 1968 (16 U.S.C. 1241–1249), provides: Any person who violates such regulations issued under section 1246 (i)



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of title 16 U.S.C., and deemed necessary by the Secretary of the Interior, shall be guilty of a misdemeanor, and may be punished by a fine of not more than \$500, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment.

[45 FR 31276, May 12, 1980, as amended at 46 FR 46810, Sept. 22, 1981; 67 FR 61745, Oct. 1, 2002]

### § 9268.4 Visual resource management. [Reserved]

### § 9268.5 Wilderness management. [Reserved]

### § 9268.6 Environmental education and protection. [Reserved]

## Subpart 9269—Technical Services

### § 9269.0–3 Authority.

(a) The provisions of this subpart are issued under the authority of R.S. 2478; 43 U.S.C. 1201.

(b) In addition to liability for trespass on the public lands, as indicated in parts 9230 and 9260 of this title, persons responsible for such trespass may be prosecuted criminally under any applicable Federal law. Penalties are prescribed by the following statutes:

(1) Timber trespass. 18 U.S.C. 1852, 1953.

(2) Turpentine trespass. 18 U.S.C. 1854.

(3) Coal trespass. 18 U.S.C. 1851, 30 U.S.C. 201(b)(4).

### § 9269.3 Criminal trespass.

#### § 9269.3–1 General management. [Reserved]

#### § 9269.3–2 Land resource management. [Reserved]

#### § 9269.3–3 Minerals management.

(a) *Oil and gas leasing.* [Reserved]

(b) *Geothermal resources leasing.* [Reserved]

(c) *Outer continental shelf leasing.* [Reserved]

(d) *Coal management*—(1) *Trespass.* Mining operations conducted prior to the effective date of a lease shall constitute an act of trespass and be subject to penalties specified in § 9239.5 of this title.

(2) *Penalty for unauthorized exploration for coal.* (i) Any person who willfully conducts coal exploration for commercial purposes without an exploration license issued under subpart 3410 of this title shall be subject to a fine of not more than \$1,000 for each day of violation.

(ii) All data collected by said person on any Federal lands as a result of such violations shall immediately be made available to the Secretary, who shall make the data available to the public as soon as possible.

(iii) No penalty under this section may be assessed unless such person is given notice and opportunity for a hearing with respect to such violation pursuant to part 4 of this title.

(e) *Minerals other than oil, gas and coal.* [Reserved]

(f) *Minerals materials disposal.* [Reserved]

(g) *Multiple use mining.* [Reserved]

(h) *Mining claims under the general mining laws.* [Reserved]

### § 9269.3–4 Range management.

(a) *Grazing administration—exclusive of Alaska*—(1) *Unlawful enclosures or occupancy.* Section 1 of the Act of February 25, 1885 (43 U.S.C. 1061), declares any enclosure of public lands made or maintained by any party, association, or corporation who “had no claim or color of title made or acquired in good faith, or an asserted right thereto, by or under claim, made in good faith with a view to entry thereof at the proper land office under the general laws of the United States at the time any such enclosure was or shall be made” to be unlawful and prohibits the maintenance or erection thereof. (See § 9269.3–4(a)(2) of this title).

(2) *Penalties.* Under section 4 of the Act of February 25, 1885 (43 U.S.C. 1064), any person violating any of the provisions of this Act, whether as owner, part owner, or agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined a sum not exceeding \$1,000, or be imprisoned not exceeding one year, or both, for each offense.

(b) *Grazing administration; Alaska; livestock.* (1) Grazing livestock upon, allowing livestock to drift and graze on,

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or driving livestock across lands that are subject to lease or permit under the provisions of part 9230 of this title or within a stock driveway, without a lease or other authorization from the Bureau of Land Management, is prohibited and constitutes trespass. Trespassers will be liable in damages to the United States for forage consumed and for injury to Federal property, and may be subject to criminal prosecution for such unlawful acts. A lessee who grazes livestock in violation of the terms and conditions of his lease by exceeding numbers specified, or by allowing the livestock to be on Federal land in an area or at a time different from that designated in his lease shall be in default and shall be subject to the provisions of § 4220.7 (g) and (h) of this title.

(2) *Penalties.* Under section 2 of the Taylor Grazing Act, any person who willfully grazes livestock in such areas without such authority shall, upon conviction, be punished by a fine of not more than \$500.

(c) *Grazing administration; Alaska; reindeer.* (1) Any use of the Federal lands for reindeer grazing purposes, unless authorized by a valid permit issued in accordance with the regulations in part 4300 of this title, is unlawful and is prohibited.

(2) *Penalties.* Any person who willfully violates any of the rules and regulations in part 4300 of this title shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be pun-

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ishable by imprisonment for not more than one year, or by a fine of not more than \$500.

(d) *Wild free-roaming horse and burro protection, management, and control.* [Reserved]

**§ 9269.3-5 Timber management.**

(a) *Sales of forest products; general.* [Reserved]

(b) *Non-sale disposals; general—*(1) *Unauthorized cutting of timber-mineral and non-mineral lands.* (i) The cutting or removing of the timber referred to in §§ 5511.1 to 5511.1-4 of this title in any other manner than that authorized by such sections will be considered a trespass.

(ii) The cutting of timber for sale and speculation, or for use by others than the permittee, is strictly prohibited.

(iii) Where permits are secured by fraud or timber is not used in accordance with § 5511.1-4 of this title, the Government will enforce the same civil and criminal liabilities as in other cases of timber trespass upon public lands.

(2) *Unauthorized cutting of timber—Alaska.* The cutting of the timber from the public land in Alaska, other than in accordance with the terms of the law and §§ 5511.2 to 5511.2-6 of this title shall render the persons responsible for trespass and such persons may be prosecuted criminally under title 18 U.S.C., (see § 9265.5(d) of this title), or under State law.